

To: Matthew Powelson(matt@321-law.com)
Subject: U.S. Trademark Application Serial No. 97315388 - M MONSTER - MON.T.1750
Sent: May 31, 2023 07:41:29 AM EDT
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Attachments

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 97315388

Mark: M MONSTER

Correspondence Address:

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Applicant: Monster, Inc.

Reference/Docket No. MON.T.1750

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SUSPENSION NOTICE
No Response Required

Issue date: May 31, 2023

This Office action is in response to the applicant's communication dated May 30, 2023. In a previous Office action issued December 2, 2022, the examining attorney refused registration of the applied-for mark for the following issues: a partial refusal under Section 2(d) of the Trademark Act for a likelihood of confusion with U.S. Registration No. 4919099; and a requirement that the identification of goods be made definite. The refusal and requirement are CONTINUED and MAINTAINED; however, **the application is suspended** for the reason(s) specified below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

Prior-Filed Applications

The pending application(s) below has an earlier filing date or effective filing date than applicant's application. If the mark in the application(s) below registers, the USPTO may refuse registration of applicant's mark under Section 2(d) because of a likelihood of confusion with the registered

mark(s). 15 U.S.C. §1052(d); *see* 37 C.F.R. §2.83; TMEP §1208.02(c). Action on this application is suspended until the prior-filed application(s) below either registers or abandons. 37 C.F.R. §2.83(c). Information relevant to the application(s) below was sent previously.

- U.S. Application Serial No(s). 97273630, 90062914

Section 2(d) - Likelihood of Confusion

In its May 30, 2023 communication, the applicant argues that the prior-filed applications and cited registration are "the same matter". It is not clear the point the applicant is trying to make. The prior-filed applications are not for the same services nor are owned by the same party as the registration. Instead, the only shared foundation is that the basis for a refusal would be Section 2(d); however, because it would provide a separate registration on which confusion is based, the cite is appropriate.

Identification of Services

In its May 30, 2023 communication, the applicant indicates it believes the proposed amendment is unnecessary because "a wide variety" does not provide further clarification. On the contrary, the wording "a wide variety of consumer goods of others" clarifies that the nature of the applicant's retail store services are akin to a department store, not a specialty store featuring consumer goods in a particular field or area. Therefore, as indicated, the applicant must amend the identification to either specify the nature of the consumer goods, such as electronics, residential furniture, and household appliances, or revise it to clarify the services are online retail store services featuring a wide variety of consumer goods of others.

Suspension process. The USPTO will periodically check this application to determine if it should remain suspended. *See* TMEP §716.04. As needed, the trademark examining attorney will issue a letter to applicant to inquire about the status of the reason for the suspension. TMEP §716.05.

No response required. Applicant may [file a response](#), but is not required to do so.

/Thomas Young/
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United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on May 31, 2023 for
U.S. Trademark Application Serial No. 97315388

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You may be required to respond to this Office action. Follow the steps below.

- (1) **[Read the Office action.](#)** This email is NOT the Office action.
- (2) **Respond to the Office action, if a response is required.** Respond by deadline using the Trademark Electronic Application System (TEAS). Your response must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response period. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your Serial Number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney](#)**. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.